

## SENATE, No. 2127

[August 17, 2009 - Text of amendment (Ways and Means) to the Senate Bill relative to the leasing of land to the Pittsfield Family YMCA by Berkshire Community College (Senate, No. 2114) ]

### **The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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1           Notwithstanding any general or special law to the contrary, but subject to section 40J of  
2 chapter 7 of the General Laws, the commissioner of capital asset management and maintenance  
3 may, in consultation with the department of higher education and Berkshire Community College,  
4 enter into a lease or other agreement with the Pittsfield Young Men's Christian Association for  
5 the purpose of facilitating the operation and maintenance of a summer community recreational  
6 program for a term, including extensions, not to exceed 20 years of certain facilities at the  
7 college's campus in the city of Pittsfield. The exact areas to be leased or otherwise used by the  
8 Pittsfield Young Men's Christian Association shall be determined by the commissioner in  
9 consultation with the department of higher education and the college.

10           Any lease or other agreement entered into pursuant to this act shall be on such terms and  
11 conditions as the division of capital asset management and maintenance, in consultation with the  
12 department of higher education and Berkshire Community College, deems appropriate. Any  
13 such lease or other agreement shall contain a provision that requires the Pittsfield Young Men's  
14 Christian Association to carry comprehensive general liability insurance with the commonwealth  
15 named as a co-insured, to protect the commonwealth against all personal injury or property

16 damage on the facilities during the term of the lease or other agreement. The Pittsfield Young  
17 Men's Christian Association shall indemnify and hold the commonwealth and Berkshire  
18 Community College harmless for all personal injury or property damage caused or suffered by  
19 the Pittsfield Young Men's Christian Association, its clients or agents.

20 The consideration for the lease or other agreement shall be the full and fair market value  
21 as determined by the commissioner of capital asset management and maintenance pursuant to an  
22 independent professional appraisal. The inspector general shall review and approve the appraisal  
23 and the review shall include an examination of the methodology utilized for the  
24 appraisal. Within 30 days of receiving the appraisal, the inspector general shall prepare a report  
25 of his review and file the report with the commissioner of capital asset management and  
26 maintenance. Within 15 days of receiving the inspector general's report but no later than 15  
27 days before the execution of any agreement or other document relating to the lease, the  
28 commissioner shall submit such report to the house and senate committees on ways and means  
29 and the house and senate committees on bonding, capital expenditures and state assets.

30 The Pittsfield Young Men's Christian Association shall be responsible for all costs  
31 deemed necessary or appropriate by the commissioner of capital asset management and  
32 maintenance for the transaction including, without limitation, the costs for legal work, survey,  
33 title, appraisal and the preparation of plans and specifications. The Pittsfield Young Men's  
34 Christian Association shall also be responsible for any costs, liabilities or expenses of any kind  
35 for the development, improvement, maintenance or operation of the facilities subject to the lease  
36 or other agreement as may be determined by the commissioner of capital asset management and  
37 maintenance, in consultation with Berkshire Community College.

38           The design of and plans and specifications for any buildings or other improvements to be  
39   constructed by the Pittsfield Young Men's Christian Association shall be subject to the review  
40   and approval of the division of capital asset management and maintenance and Berkshire  
41   Community College.